

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Martin S. Gottesfeld, pro se,
Plaintiff
- against -
Hugh J. Hurwitz, et al.,
Defendants

Case No.: 18-cv-10836-PGG-GWG

PLAINTIFF'S MOTION FOR AN EXTENSION TO OPPOSE DOCKET ENTRY 51-52

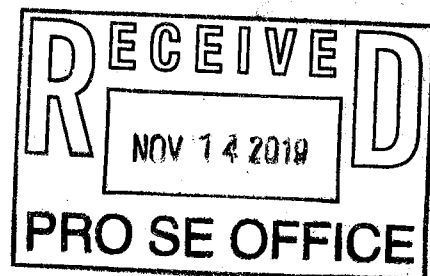
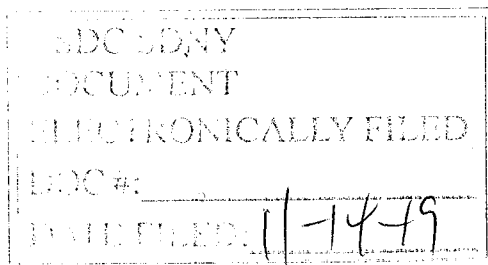
Plaintiff Martin S. Gottesfeld (herein "plaintiff"), acting pro se, hereby moves for a further extension of time in which to file his opposition to the defendants' motion to dismiss, found at docket entries 51-52.

In support of this motion, the plaintiff herewith provides exhibits 1 and 2 hereto and requests pursuant to Fed. R. Evid. 201(c)(2) that The Honorable Court take mandatory judicial notice thereof.

Respectfully mailed on Wednesday, October 30th, 2019, and filed thereat pursuant to Houston v. Lack, 487 U.S. 266 (1988), in an envelope bearing sufficient affixed pre-paid first-class U.S. postage and U.S. Postal Service tracking number 9114 9023 0722 4291 7452 24, handed to Ms. J. Wheeler of the FCI Terre Haute CMU unit team acting in her official capacity as an agent of the instant defendants,

by: 

Martin S. Gottesfeld, pro se
Reg. No.: 12982-104
Federal Correctional Institution
P.O. Box 33
Terre Haute, IN 47808



CERTIFICATE OF SERVICE

I, Martin S. Gottesfeld, pro se, hereby certify that on Wednesday, October 30th, 2019, I mailed a copy of the foregoing document to counsel for the defendants in the above-captioned case by handing such copy in an envelope bearing sufficient affixed pre-paid first-class U.S. postage to Ms. J. Wheeler of the FCI Terre Haute CMU unit team for mailing in her official capacity as an agent of the defendants in the above-captioned case,

by:



Martin S. Gottesfeld, pro se

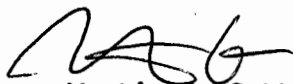
Exhibit 1

Declaration of Martin S. Gottesfeld:

I, Martin S. Gottesfeld, do hereby affirm that the following is true and accurate to the best of my knowledge, information, and belief on this 30th day of October, 2019, and I declare under penalty of perjury pursuant to 28 U.S.C. § 1746(1) that the following is true and correct:

1. My name is Martin S. Gottesfeld and I am the sole plaintiff in the case of 18-cv-10836-PGG-GWG, currently pending before The Honorable U.S. District Court for The Southern District of New York (hereafter "the case").
2. Agents of the defendants in the case continue to omit delivery of essential commissary supplies to the FCI Terre Haute CMU, where I am held at the order of agents of the defendants in the case, and without these supplies I am unable to prepare my filing in opposition to the motion made in the case as docket entries 51 and 52.
3. This is the fifth week in which I have attempted to purchase these essential supplies from my only possible provider thereof, the FCI Terre Haute Commissary department, comprised of agents of the defendants in the case, and I am yet to receive them.
4. Ahead of this problem, I inquired in writing for permission to purchase extra supplies, and in so doing I explicitly cited to agents of the defendants in the case my need to continue litigating the case.
5. Agents of the defendants in the case refused me permission to purchase extra supplies that could have at least partially mitigated the resulting filing delay.
6. Over the last 7 days, I had to file a time-sensitive motion for leave to intervene in another case, and doing so further put me behind schedule and further depleted my supplies, but I had no choice because motions for leave to intervene are prejudiced by delay and this motion was required in order to vindicate my Constitutional rights.
7. This week, a bulletin was posted to the inmate population with a commissary delivery schedule and I am including a copy herewith as Exhibit 2.
8. The bulletin does not specify a schedule for delivery to the CMU, which is D-Unit and which is not "CMS," but I was told our delivery would come yesterday, October 29th, 2019, and it did not and has not since arrived.
9. My supplies are now so low that even if regular commissary delivery were to be restored, it would take at least two (2) weeks for me to be able to file my opposition to docket entries 51 and 52 in the case, meaning that I would not be able to guarantee any filing thereof until--at the earliest--mail call on Monday, November 18th, 2019 (in accordance with the prison-mailbox rule of Houston v. Lack).
10. Because this delay is entirely caused by agents of the defendants in the case and is entirely beyond my control, I request equitable tolling of all relevant statutes of limitations during the period from October 15th, 2019, through November 18th, 2019.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 30th, 2019.



Martin S. Gottesfeld

Exhibit 2

FCC Terre Haute



Inmate Bulletin

DUE TO THE INSTITUTIONAL LOCKDOWN THE SCHEDULE FOR COMMISSARY IS AS FOLLOWS. THERE WILL BE A UNICOR AND G-UNIT COMMISSARY CALL. THE UNICOR AND G-UNIT LIST WILL BE TAKEN AT THE DOOR/WINDOW. IF YOU AREN'T UNICOR YOU WILL NOT SHOP. THOSE TRYING TO SHOP OUT OF BOUNDS WILL RECIEVE A DISCIPLINARY WRITE UP. FOR THE REST OF THE WEEK THE UNITS WILL SHOP AS FOLLOWS;

MONDAY (10-28-19)CLOSED.

TUESDAY (10-29-19)UNICOR & G-UNIT SHOPPERS

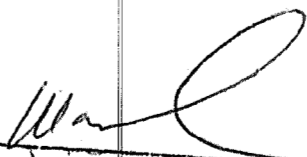
WEDNESDAY (10-30-19)E-UNIT & F-UNIT SHOPPERS.
AM CMS E & F UNITS.

THURSDAY (10-31-19)L, M, & I UNIT SHOPPERS.
AM CMS L, M, & I UNITS.

FRIDAY (11-1-19)J-UNIT & K-UNIT SHOPPERS.
AM CMS J & K UNITS.

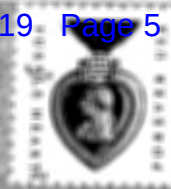
*ATTENTION: ALL OTHER UNITS WILL PUT THEIR COMMISSARY LIST IN THE BLUE BOX IN THE EAST END CORRIDOR.

10-28-19
Date


M. Williams MHS

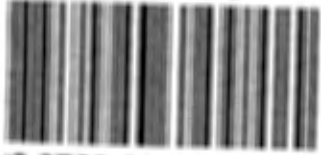
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12982-104
Correctional Institution
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through Feb. 2020

co-12982-104 co
U S District Court
Pro Se Clerk
500 Pearl ST
NEW YORK, NY 10007
United States

Wednesday, October 30th, 2019, Houston v. Lack, 487 U.S. 266 (1988)

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